

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 06-11662-RWZ

MARY G. LARSON

v.

LLOYD HOWELL, et al.

MEMORANDUM OF DECISION AND ORDER

May 15, 2007

ZOBEL, D.J.

Appellant-Debtor Mary G. Larson ("Larson") appeals from a Bankruptcy Court decision capping her claimed homestead exemption at \$125,000. This case stems from a tragic accident. In September 2002, Larson failed to yield while making a left-hand turn in front of Appellee-Creditor Lloyd Howell's ("Howell") oncoming motorcycle. The passenger on the motorcycle, Howell's wife, was killed in the ensuing collision. Larson admitted in Massachusetts district court to sufficient facts to warrant a finding of guilty to a charge of Motor Vehicle Homicide by Negligence Operation, Mass. Gen. Laws ch. 90, § 24G(b), a misdemeanor, and the criminal case was continued without a finding for a period of one year. Howell brought a civil suit against Larson, which resulted in stipulated damages of \$1,000,000.

Shortly thereafter, Larson filed a petition for bankruptcy under Chapter 7, and claimed an exemption in her homestead of \$500,000, as allowed under Massachusetts law. Howell filed an objection to the amount, arguing that under a provision of the

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA” or “Act”),¹ the debtor’s homestead exemption was limited to \$125,000.

In particular, the BAPCPA limits the exempt amount of an interest in property to \$125,000 if:

[T]he debtor owes a debt arising from – any criminal act, intentional tort, or willful or reckless misconduct that caused serious physical injury or death to another individual in the preceding 5 years.

11 U.S.C. § 522(q)(1)(B)(iv) (emphasis added). On April 5, 2006, the Bankruptcy Court determined that Larson committed a “criminal act” as required by the statute and sustained Howell’s objection. This appeal followed.

The parties disagree on the meaning of “any criminal act” under the BAPCPA. The term is not defined in the statute, and there appears to be no prior case law interpreting this subsection of the Act. The Bankruptcy Court found the statute’s language plain and refused to read into it either a mens rea requirement or a requirement for a criminal conviction. Because Larson admitted in state court to sufficient facts to be found guilty of motor vehicle homicide, the Bankruptcy Court held that 11 U.S.C. § 522(q)(1)(B)(iv) was applicable and limited Larson’s homestead exemption to \$125,000.²

The parties agree that review of legal rulings are de novo. I have reviewed the

¹ Pub. L. No. 109-8, § 322, 119 Stat. 23, 97 (2005) (codified as amended at 11 U.S.C. § 522).

² The Bankruptcy Court initially scheduled a hearing to determine if 11 U.S.C. § 522(q)(2), which allows the exempted amount to be increased where the interest in property is “reasonably necessary for the support of the debtor and any dependants,” was applicable. This hearing was canceled at the request of the debtor, and the court issued an order limiting Larson’s homestead exemption to \$125,000.

record, but I find no error and affirm the order of the Bankruptcy Court on its opinion.

Judgment may be entered accordingly.

May 15, 2007

DATE

/s/Rya W. Zobel

RYA W. ZOBEL

UNITED STATES DISTRICT JUDGE